

Jaromin, Michelle

From: Xidis, Claire
Sent: Wednesday, March 11, 2009 3:50 PM
To: 'Ehrich, Delmar R.'
Cc: George, Robert; Jorgensen, Jay T.; Jones, Tim; Scott McDaniel; John Elrod; jtucker@rhodesokla.com; Mark_Quayle@cargill.com; Triplett, Eric J.; Robert Sanders; James Graves; Deihl, Colin C.; Mark_Quayle@cargill.com; Moll, Ingrid; Baker, Fred; Kelly.Burch@oag.ok.gov; 'David Page'; David Riggs; 'Richard Garren'; 'Bob Nance'; 'Louis Bullock'; bblakemore@bullock-blakemore.com; Ward, Liza; 'Daniel.Lennington@oag.ok.gov'; Trevor.Hammons@oag.ok.gov
Subject: RE: Stratus Damages reports/depositions

Delmar -

The suggestion that the State has been trying to delay Defendants' depositions of the Stratus experts is ridiculous. On Feb. 3, 2009, having heard nothing from Defendants on this issue, the State offered dates for these experts' depositions, and Defendants never substantively responded to that offer and have not subsequently attempted, until your email yesterday, to schedule these depositions. Furthermore, after your inquiry about the authors' opinions and materials on Feb. 12, 2009, I made the State's position on that issue clear to you on Feb. 13, 2009. The fact Defendants are now claiming this impairs their deposition preparation, after sitting on this issue for almost a month, and after having the disclosure and materials since January 5, 2009, places any delay efforts squarely on Defendants' shoulders.

Because Defendants waited so long to schedule depositions, there is very little if any flexibility in the schedules of these experts and counsel between now and March 30th. Below are the dates that the State can make the Stratus authors available for deposition in Tulsa. We will make each of them available at the Riggs Abney Tulsa office, starting at 8:30 am.

Chapman - March 18
 Morey - March 20
 Bishop - March 23
 Tourangeau - March 25
 Kanninen - March 26
 Krosnick - March 27
 Hanemann - March 29

I need to know by the close of business tomorrow whether Defendants accept these dates.

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From: Ehrich, Delmar R. [mailto:DEhrich@faegre.com]
Sent: Tuesday, March 10, 2009 6:51 PM
To: Xidis, Claire
Cc: George, Robert; Jorgensen, Jay T.; Jones, Tim; Scott McDaniel; John Elrod; jtucker@rhodesokla.com; Mark_Quayle@cargill.com; Triplett, Eric J.; Robert Sanders; James Graves; Deihl, Colin C.; Mark_Quayle@cargill.com
Subject: Stratus Damages reports/depositions

Ms. Xidis, we previously exchanged email concerning the seven authors of the Stratus damages

4/1/2009

EXHIBIT

3

reports. The defendants' position is that if plaintiff indeed intends to call all seven authors to testify at trial, then Rule 26(a) obligates plaintiff to disclose for each witness his opinions and bases therefor, as well as the considered materials for each such witness, appropriately marked as such. You have maintained that plaintiff has no such obligation.

It seems unlikely that each listed author will testify to exactly the same things. Moreover, if each did so, the court would likely exclude any witness after the first as cumulative. The plaintiff's position, therefore, appears designed to delay the defendants in their efforts to depose those CV authors whom the plaintiff expects to testify at trial and to complete the defendants' experts' rebuttal damages report, which is presently due March 30. Accordingly, I ask that you identify which authors plaintiff intends to call to testify, make the required Rule 26(a) disclosure as to each, and provide me with dates for their depositions on or prior to March 30.

Thank you.